

**IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE**  
**IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,	)	
Petitioner	)	
	)	
v.	)	No: 0806028750
	)	
	)	
OGDEN BLAKE,	)	
Defendant	)	

Date Submitted: November 09, 2009  
Date Decided: January 12, 2009

Barzilai K. Axelrod, Esquire  
Department of Justice  
820 N. French St.  
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*Attorney for State*

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Office of the Public Defender  
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Wilmington, DE 19801  
*Attorney for Respondent*

**LETTER OPINION**

This is the Courts decision after trail.

Upon Further reflection the Court is not satisfied that the State has made out the requisite probable cause to detain the defendant for the charges placed, being Driving Under the Influence of Alcohol and Drunk on the Highway.

The Defendant was found some distance from the car on the side of the highway. The officer had not seen the Defendant operating driving or being in actual control of the car. There is evidence that Defendant had consumed some alcohol while on the side of the road before the officers arrived. Defendants admission that it was his vehicle on the

side of the road cannot be used against him until the *corpus delicti* of the crime is shown and there is no evidence that it has been shown.

The Defendant is hereby given the benefit of the doubt, and a finding of not guilty is entered as to both charges.

**SO ORDERED**

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WILLIAM C. BRADLEY  
JUDGE